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SUPREME COURT OF THE UNITED STATES.

No. 69.

DANIEL DOBBINS PLFF. IN ERROR,

vs.

THE COMMISSIONERS OF ERIE COUNTY.

IN ERROR TO SUPREME COURT OF PENNSYLVANIA.

IN THE COMMON PLEAS OF ERIE COUNTY.

No. 146, February Term, 1838.

DANIEL DOBBINS
146 *vs.*
THE COMMISSIONERS OF ERIE COUNTY. } 9th February, 1838.

Case stated for the opinion of the court on a statement of facts filed to be considered in the nature of a special verdict. 27th March, 1838, judgment for plaintiff for ten dollars and seventy-five cents - - - - - - - - - $10 75

Tax -	50
Attorney	3 00
Protest -	2 35
	$5 85

ERIE COUNTY, *ss.*

I, William Kelly, prothonatary of the court of common pleas of Erie county, do certify that the above is a true transcript of the docket entries in the above stated case, and that the papers attached are the original papers in said suit.

In testimony whereof, I have hereunto set my hand and the [L. S.] seal of the said court, at Erie, this 30th day of August, A. D. 1838.

WILLIAM KELLY, *Prothon.*
Per A. MAY.

[REC. LXIX. J. T. 1841.]—1

DANIEL DOBBINS
vs.
THE COMMISSIONERS OF ERIE COUNTY.

Case stated in the common pleas of Erie county: It is agreed that the following facts be submitted to the court, to be considered in the nature of a special verdict, either party having the right to take a writ of error.

The plaintiff is and has been for the last eight years an officer of the United States, to wit, captain in the United States revenue cutter service, and ever since his appointment has been in service in command of the United States revenue cutter Erie, on the Erie station. He has been rated and assessed with county taxes for the last three years, to wit, 1835, 1836, and 1837, as such officer of the United States, for his office as such, valued at $500; which taxes so rated and assessed and paid by the plaintiff amounts to the sum of ten dollars and seventy-five cents.

The question submitted to the court is, whether the plaintiff is liable to be rated and assessed for his office under the United States for county rates and levies; if he is, then judgment be entered for the defendants, if not, then judgment to be entered for the plaintiff for the sum of ten dollars and seventy-five cents.

JOHN GALBRAITH,
Attorney for Plaintiff.
GEO. A. ELLIOT,
Attorney for Defendants.

It is further agreed and admitted that the plaintiff has his residence and domicil at Erie, Erie county, Pennsylvania, and votes in said place.

GEO. A. ELLIOT,
Attorney for Defendants.
JOHN GALBRAITH.

March 27, 1838. The court gave judgment, for the plaintiff in the case stated.

HENRY SHIPPEN.

Filed 9th February, 1838.

SUPREME COURT OF PENNSYLVANIA,
In and for the Western District,
September and October Term, 1838.

COMMISSIONERS OF ERIE COUNTY, Plaintiffs in Error,
vs.
DANIEL DOBBINS, Defendant in Error.
No. 14.
Erie Co'ty.

Record returned and errors assigned, September 17th, 1838; same day argued. September 22, 1838, judgment reversed, and

judgment entered for the defendants below, now plaintiffs in error.

A true copy from the record.

Witness my hand and seal of said court.

SAMUEL FREW, *Prothonotary.*

Costs attorney	-	4 00
Prothonotary	-	5 00 for writ
Protest -	-	3 50

Paid by J. S. Riddle.

S. FREW.

No, 148—September and October Term, 1838.

THE COMMISSIONERS OF ERIE COUNTY, Plaintiffs in Error,
vs.
DANIEL DOBBINS, Defendant in Error.

Writ of error to the court of common pleas of Erie county. Affidavit and entry on same filed and writ issued May 20, 1838.

Rule to appear and plead at the return of the writ.

N. B. Ten days service on the party or his counsel below will be necessary to compel an appearance.

S. FREW, *Pro. S. C. W. D.*

$5 paid.

RIDDLE.

PENNSYLVANIA, *sct.*

The Commonwealth of Pennsylvania, to the Judges of the Court of Common Pleas for the county of Erie, greeting:

Because in the record and process and in rendering the judgment in a certain plaint which was in our said court, before the judges of the same court by our writ, between Daniel Dobbins, plaintiff, and the Commissioners of Erie County, defendants, as it is said, manifest error hath intervened, to the great damage of the said Commissioners of Erie County, as by the complaint of the same Commisssoners of Erie County we have received information; we, willing that if any error be therein, it should be corrected, and that speedy justice be done to the parties in this part, do command you, that if judgment, as it is said, be rendered in the said plea, then the record and process and all things touching the same, under your seal, distinctly and openly, you have before the judges of the supreme court of the said Commonwealth, at a supreme court to be held at Pittsburg, in and for the western district of the said Commonwealth, on the third Monday of September next, and this writ, that the record and process aforesaid being inspected, we may further cause to be done, what of right and according to our customs ought.

Witness the honorable John B. Gibson, chief justice of our said su-

preme court, at Pittsburgh, the twenty-second day of October, in the year of our Lord one thousand eight hundred and thirty-seven, and of the Commonwealth the sixty-third.

SAMUEL FREW,
Prothonotary of the Western District.

Allowed by

MOLTON C. ROGERS.

To the honorable Judges of the Supreme Court of Pennsylvania:

The record, plea, process, and all things touching the same, we send hereunto annexed, as by the within writ of error we are commanded.

Witness our hands and seals, September 14, 1838.

HENRY SHIPPEN, [L. S.]

SUPREME COURT OF PENNSYLVANIA,
In and for the Western District,
September and October Term, 1838—*No.* 11.

COMMISSIONERS OF ERIE COUNTY, Plaintiffs in Error,
vs.
DANIEL DOBBINS, Defendant in Error.

Writ of Error to the Court of Common Pleas of Erie county to remove the record and all proceedings in a certain cause there depending, wherein the said commissioners are defendants and the said Daniel is plaintiff.

Affidavit of James Miles filed and writ issued Aug. 20th, 1838, September 17, 1838, record returned. Same day comes the said commissioners, by J. Stuart Riddle, their attorney, and say that in the record, &c. there is manifest error in this, to wit, that, &c. (see assignment of errors filed.) And the said Daniel, by John Galbraith, Esq. his attorney, appearing, pleads "*in nullo est erratum.*" Issue, &c. Sept. 17, 1838, argued. And now Sept. 22, 1838, come, &c. Because it appears to the court here that there is manifest error in the record and proceedings aforesaid and in giving the judgment aforesaid.

Therefore, it is considered that the judgment aforesaid for the error aforesaid and for other errors in the said record and proceedings being, be reversed, and judgment for the defendant below.

Jan. 2, 1841, writ of error, appeal bond, and citation filed.

[L. S.] I do hereby certify the forgoing to be a true and correct copy of the docket entries in the foregoing case. Given under my hand and the seal of said court this 11th Jan., A. D. 1841.

A. L. PENTLAND,
Prothonotary.

THE COMMISSIONERS OF ERIE COUNTY,
Plaintiffs in Error,
vs.
DANIEL DOBBINS, Defendant in Error.

Issue writ of error to the court of common pleas of Erie county returnable to September term next.

J. STUART RIDDLE,
Attorney for the Plffs. in Error.

To the Proth'y of W. D. S. C., Pa.

ERIE COUNTY, *ss.*

James Miles, one of the plaintiffs in error, being duly sworn, deposeth and saith that the writ of error in this case is not intended for delay.

J. NILES.

Sworn and subscribed this 10th of August, A. D. 1838.

JOHN VINCENT,
One of the Associate Judges of Erie County.

Filed and sent. Issued Aug. 20, 1838.

Assignment of Error.

September and October Term, 1838.

COMMISSIONERS OF ERIE COUNTY,
Plaintiffs in Error,
vs.
DANIEL DOBBINS.

Assignment of error. The court erred in giving judgment for the plaintiff below on the case stated.

J. STUART RIDDLE,
Attorney for Plaintiffs in Error.

Filed September 17, 1838.

Writ of Error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States to the honorable the Judges of the Supreme Court of the Commonweatth of Pennsylvania, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the Commonwealth of Pennsylvania before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between the Commissioners of Erie county, plaintiffs in error, and Daniel Dobbins, defendant in error, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in

question the validity of a statute of, or an authority exercised under said State, on the ground of their being repugant to the constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the constitution, or of a treaty, or statute of, or commission held under the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said Daniel Dobbins, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of Jannary next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, Chief Justice of the said Supreme Court, this second Monday of January, in the year of our Lord one thousand eight hundred and forty.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by

J. McKINLEY,
One of the Associate Justices of the Supreme Court of the United States.

To the honorable the Judges within named.

We do respectfully certify and send the record and all things touching the same, together with this writ, as within we are commanded.

Witness our hands and seals.

Test: A. L. PENTLAND,
Proth'y. [L. S.]

Citation.

The United States of America, to the Commissioners of Erie County, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of January next, pursuant to a writ of error, filed in the clerk's office of the supreme court of Commonwealth of

Pennsylvania, wherein Daniel Dobbins, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the honorable ——— ———, of the ——— this ——— day of ———, in the year of our Lord one thousand eight hundred and ———.

J. McKINLEY,
One of the Associate Justices of the Sup. C. of the U. S.

STATE OF PENNSYLVANIA, *Erie County, ss.*

On this ninth day of January, in the year of our Lord one thousand eight hundred and forty-one, personally appeared William W. Dobbins, before me the subscriber, a justice of the peace, in and for the county of Erie, aforesaid, and makes oath that he delivered a true copy of the within citation to William E. McNair, Lyman Robinson, and Russell *Staricbfl*, the commissioners of Erie county, on this 9th day of January, A. D. 1841.

WM. W. DOBBINS.

Sworn and subscribed before me, this 9th day of January, A. D. 1841.

G. JOHNSTON BALL.

I do hereby authorise and depute William W. Dobbins, to serve the within writ.

Witness my hand and seal, at Franklin, the seventh day of January, A. D. 1841.

A. PLUMER, [L. S.]
U. S Marshal W. Dis't Penn.

Witness present, JOHN W. SHUGERT.

STATE OF PENNSYLVANIA, *Erie County, ss.*

I, William Kelley, prothonatory of the court of common pleas, in and for said county, do certify that G. Johnston Ball, Esq., before whom the above affidavit was sworn, was at the time and still is, an acting justice of the peace, in and for said county, duly commissioned and sworn, to all whose official acts as such, full faith and credit is due.

In witness whereof, I have hereunto set my hand, and the [L. S.] seal of said court this ninth day of January, A. D. 1841.

WILLIAM KELLEY, *Pro.*

Copy of Appeal Bond.

Know all men by these presents, that I, John Galbraith, of the State of Pennsylvania, are held and firmly bound unto the Commis-

sioners of Erie county, in the full and just sum of five hundred dollars, to be paid to the said Commissioners of Erie county, their certain attorney, executors, administrators, or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this —— day of ————, in the year of our Lord one thousand eight hundred ———.

Whereas lately at a supreme court of the Commonwealth of Pennsylvania, in a suit depending in said court, between the said Commissioners of Erie county, plaintiffs in error, and Daniel Dobbins, defendant in error, judgment was rendered against the said Daniel Dobbins, and the said Daniel Dobbins, having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Commissioners of Erie county, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington, the second Monday of January next.

Now the condition of the above obligation is such, that if the said Daniel Dobbins, shall prosecute said writ of error to effect and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

Sealed and delivered in the presence of

Signed JOHN GALBRAITH, [L. S.]

Approved by

Signed J. McKINLEY,

One of the Associate Justices of the S. C. of the U. S.

At a stated term of the Circuit Court of the United States of America for the Southern District of New York in the second circuit, held at the city hall in the city of New York on Wednesday the sixteenth day of December in the year of our Lord one thousand eight hundred and forty.

Present: The Honorable Smith Thompson associate Judge of the Supreme Court of the United States and the Honorable Samuel R. Betts.

THE UNITED STATES OF AMERICA
vs.
WILLIAM MURPHY AND WILLIAM MORGAN.

On indictment for stealing sovereigns, while on board the ship Carroll of Carrolton, on the high seas.

The defendants, William Murphy and William Morgan were indicted under the sixteenth section of the act entitled, "an act for the punishment of certain crimes against the United States," approved on the 30th April 1790, for taking and carrying away with an intent to steal and purloin on board of an American vessel on the high seas, one hundred and two gold coins called sovereigns, each of the value of five dollars, of the personal goods of Francis McMahon.

The defendants having pleaded not guilty, and the case being brought to trial, Francis McMahon the owner of the property described in the indictment, was called as a witness on the part of the United States, to prove the ownership of the said property, and that it had been stolen from him in June 1840, in his passage on board the ship Carroll of Carrolton, from Liverpool to the city of New York; and also, to prove facts and circumstances tending to shew that the defendants were guilty of the said offence; to the competency of which witness, as to either of the said matters, the counsel for the defendants objected, on the ground that he was interested in the event of the suit; and so interested that he would not be rendered competent by any release to be executed by him.

And hereupon the judges where divided in opinion upon the following questions, which were presented for their decision.

First. Whether the said Francis McMahon, the owner of the property alleged to have been stolen, was a competent witness to be examined on the part of the United States, as to all the matters above mentioned?